

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Robert W. Gettleman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	10 C 4249	DATE	7/30/2010
CASE TITLE	James D. Lewis (#2008-0066593) v. Tom Dart, et al.		

## DOCKET ENTRY TEXT:

Plaintiff's current application to proceed *in forma pauperis* [3] is incomplete and denied without prejudice to Plaintiff submitting a completed application. Plaintiff's complaint fails to state a valid claim and is dismissed without prejudice to Plaintiff submitting an amended complaint. Within 30 days of the date of this order, Plaintiff must: (1) either submit a completed *in forma pauperis* application or prepay the \$350 filing fee, and (2) submit an amended complaint that clearly states the claims being alleged against each defendant. The clerk shall send to Plaintiff another *in forma pauperis* application and an amended complaint form, along with a copy of this order. Failure to comply with this order will result in dismissal of the case without prejudice.

■ [For further details see text below.]

Docketing to mail notices.

## STATEMENT

Plaintiff, James D. Lewis (#2008-0066593) is currently incarcerated at Cook County Jail. He has filed this civil rights complaint under 42 U.S.C. § 1983 against Cook County Sheriff Tom Dart, Executive Director Salvador Godinez, and Superintendent Martinez. Plaintiff states that he was attacked by other inmates with portions of a crutch and/or a crane.

Plaintiff's current application to proceed *in forma pauperis* is incomplete, as it includes neither a copy of his jail trust fund account for a six-month period preceding his filing of this complaint nor a certificate by an authorized officer stating the average balance of Plaintiff's trust fund account. The issue of the filing fee must be resolved before this case can proceed forward.

The Prison Litigation Reform Act requires all inmates to pay the full filing fee. If an inmate is unable to prepay the \$350 filing fee, he may submit an application to proceed *in forma pauperis*, which allows the inmate to pay the filing fee in installments. The *in forma pauperis* application must be on this court's form. If the court grants the inmate's application, the court will direct correctional officials to deduct an initial partial payment of the filing fee directly from the inmate's trust fund account, and to make further monthly deductions from that account until the full filing fee is paid. To enable the court to determine if Plaintiff qualifies as a pauper and to make the necessary assessment of the initial partial filing fee, Plaintiff must, with his application, "submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . , obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2).

Plaintiff's motion to proceed *in forma pauperis* is denied. Within 30 days of the date of this order, he must submit a completed application that includes both a certificate by an authorized officer and a copy of his jail trust fund account statement. His failure to do so will result in dismissal of this case without prejudice.

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**STATEMENT (continued)**

Additionally, Plaintiff's complaint fails to state how the defendants were involved with the attack alleged in the complaint. Under the notice pleading requirement, Plaintiff must provide sufficient information to give each defendant notice of the claim alleged him or her, and the grounds upon which the claim is based. Also, the allegations of a complaint must at least plausibly suggest, above a mere "speculative level," that Plaintiff has a right to right. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Plaintiff neither alleges that the defendants were personally involved with failing to protect him or that they were responsible for a unconstitutional policy or custom to hold them liable in their official capacities. The complaint is unclear as to what Plaintiff's claims against the defendants are.

The complaint is dismissed without prejudice to Plaintiff submitting an amended complaint that clearly states what claim he alleges against each defendant.

Accordingly, to proceed with this case, Plaintiff must, within 30 days of the date of this order: (1) either submit a completed *in forma pauperis* application or prepay the \$350 filing fee, and (2) submit an amended complaint that clearly states his claims against each defendant. Failure to comply with this order may be construed as Plaintiff's desire not to proceed with this case and will result in summary dismissal of the case without prejudice. Plaintiff must include a judge's copy of the amended complaint, as well as a service copy for each named defendant. Also, Plaintiff is advised that an amended complaint replaces a prior complaint, and the court will look only to the amended complaint to determine the nature of his claims and the parties to this suit.